

**FDA POLICY FOR IMPLEMENTING EXECUTIVE ORDER 12999:
"DONATION OF EXCESS EDUCATION-RELATED PROPERTY"**

BACKGROUND:

On April 17, 1996, the President signed an Executive Order that encourages federal agencies to make an important contribution to education. E.O. 12999, Educational Technology: Ensuring Opportunity for All Children in the Next Century, directs agencies - to the extent permitted by law and where appropriate - to transfer computers and related peripheral tools determined to be excess to the needs of the agency directly to eligible schools and non-profit educational organizations.

The Act also authorizes the direct transfer of excess research equipment to educational institutions or non-profit organizations to promote technical and scientific education research activities without reporting property to GSA. The property is considered a gift, and title immediately passes to the eligible organization. Title is unconditional, and there are no terms and/or conditions on the use of the property except that it must be used for direct educational purposes as opposed to administrative purposes.

However, a key feature of the Order, and one that cannot be overlooked, is that agencies keep track of all equipment transferred so that an annual report of all transfers can be provided GSA. The efficacy of the Order can be evaluated accurately only if the data are available from each agency regarding the type of equipment transferred, the quantities involved and the recipients.

PURPOSE:

Under the authority contained in the E.O. 12999 and the Stevenson-Wydler Innovation Technology Act of 1980, the policy contained herein provides for the establishment and operation of FDA's donation program for education equipment to schools and non-profit organizations in an equitable manner. The issuance of this policy, provides FDA's organizations the means to effectively and efficiently carry out the intent of the E.O.

The authority to approve the donation of educational equipment is delegated as follows:

Headquarters

Executive Officer, Office of Management, OC.
Director, Office of Management, CVM.
Director, Office of Management Systems, CFSAN.
Associate Director for Research Support, NCTR.
Associate Director for Management and Systems, CDRH.
Director, Office of Management, CDER.

Director, Office of Management, CBER.
Director, Office of Resource Management, ORA.

Field

ORA Regional and District Directors
Director, Northeast Regional Laboratory
Director, Southeast Regional Laboratory
Director, National Forensic Chemistry Center
Director, Division of Drug Analysis, CDER
Director, Winchester Engineering and Analytical Center
Chief, Laboratory Quality Assurance Branch, CFSAN
Chief, Northeast Technical Services Unit, CFSAN
Chief, Fishery Research Branch, CFSAN
Special Agent in Charge, OCI Field Offices

This policy augments the procedures set forth in SMG 2620.2, "Accounting, Inventory Controls, Utilization & Disposal of Personal Property Assigned to Custodial Areas", dated 7/7/95.

The issuance of this policy will provide guidance and operating procedures in order to ensure that FDA follows the guidance set forth in the Department's policy and is properly empowered to carry out the intent of the E.O.

POLICY:

Within the framework of the Department's policy, FDA will actively support the intent and purpose of the educational goals of E.O. 12999 and the Stevenson-Wydler Act. In doing so, and within the limits and requirements of said legislation and HHS' policy and procedures, FDA offices will transfer through gift or donation, excess education-related equipment to eligible schools and non-profit organizations.

FDA shall attempt to give particular preferences to schools and non-profit organizations located in the Federal enterprise communities and empowerment zones. Schools, as defined by the E.O., include elementary, middle and high-schools, colleges and universities of a public, private or of a parochial nature.

As the Federal Government's top representatives in the regional offices throughout the country, members of the Federal Executive Boards (FEBs) can take the lead in assisting FDA's field offices in implementing the Order. This may include:

- promoting the Order and the inventory of excess computer equipment within their own agencies and through their outreach activities;
- considering working with local computer recyclers to facilitate the upgrading of

equipment;

- promoting the availability of equipment through newspapers, community announcements and the Internet, etc. and
- identifying appropriate schools and non-profit organizations to receive the equipment.

For purposes of implementing the donation of education-related equipment, computer-related equipment includes: computers and related peripheral tools such as printers, modems, servers, etc. Computer software can also be donated where the transfer of licenses is permitted. (Offices will have to check with each software vendor or licensor about permission to transfer specific software).

SOFTWARE--Within the scope of the school/non-profit donation program, software may also be transferred. The specifics vary for each item of software, and by company owning the software. Software may be transferred based on the terms and conditions of the software license agreement.

TO PROTECT THE GOVERNMENT INTERESTS, NO SOFTWARE WILL BE DONATED WITHIN THE AUTHORITY OF THIS PROGRAM UNLESS THE DONOR'S OFFICE HAS VERIFIED WITH THE APPROPRIATE OFFICE (e.g. local IRM/Lan support office; cognizant ADP support office; FDA Contracting Officer) THAT THE GOVERNMENT HAS THE AUTHORITY TO DONATE BASED ON ITS LICENSE AGREEMENT WITH THE COPYRIGHT HOLDER.

SOFTWARE LICENSES--Most commercial software is protected by copyrights and some may also be patented, which provides additional protection to the vendor. When an organization "purchases" a commercial software package, it usually only buys the right (i.e., license) to use the software. The ownership of the "intellectual property," the underlying program code, remains with the inventor or manufacturer.

SECURITY—Prior to reuse or disposition, all sensitive data must be removed from the personal computer software and component equipment. This action is the responsibility of the using organization with help from the Center Information Resources Management (IRM) office and information systems security officer. There are two principal, acceptable ways to remove sensitive data from personal computer storage media (e.g., hard disks, magnetic tape): overwriting and degaussing. Degaussing is a process whereby the magnetic media is erased or returned to its initial state.

For math or science equipment, the donations may include:

1. Electrical and electronic equipment components
2. Instruments and laboratory equipment
3. Medical, dental, veterinary equipment and supplies
4. Photographic equipment
5. Communications, detection, and coherent radiation equipment

6. General purpose data processing equipment and related peripheral tools such as printers, modems, routers and servers, and software (dependent on the manufacturer's license/terms), supplies and support equipment.
7. Pumps and compressors and valves
8. Books and manuals
9. Technical/vocational type materials
10. Furniture (computer stands, tables, etc.)
11. School supplies (pencils, paper, binders).

During the process of identifying and targeting excess equipment for the donation program, FDA components should make reasonable efforts, consistent with existing screening capabilities of the component, the FDA, and HHS, to determine that the equipment is not needed elsewhere.

PROCEDURES:

Roles

Once proper excess screening procedures have been completed, the excess property can be reserved for the donation program.

FDA program officials, both Headquarters and Field, authorized to approve donations will be responsible for oversight of the donation program. They will ensure that the program is effectively carried out in accordance with outstanding property management policies and procedures.

Identification of Recipients

Reasonable effort must be made to identify qualified schools and non-profit organizations. In the field, this may be accomplished with the assistance of local Federal Executive Boards (FEBs). Again, offices are particularly urged to create partnerships with empowerment zone and enterprise community schools. Such schools include:

- Schools in economically depressed areas
- Inner-city schools
- Rural schools

(These schools should serve the poorest students that lack access to adequate outside resources).

- Adopt-A-School/Partnership Schools
- Schools involved in Education Reform Initiatives to Promote Excellence and
- Educational organizations that emphasize math, science or technology

Initiating the Transfers

Transfers can be made to individual schools, school districts or eligible non-profit organizations.

The E.O. encourages the use of computer recyclers to repair and upgrade computers before they are transferred to eligible organizations. In the field, FEBs may be able to help identify computer recyclers in the respective regions because they have been provided with a preliminary list of recycling organizations.

When using the allowable methods to advertise the availability of the equipment, donating offices should request that schools inform the advertising office of their interest in the program, the types of equipment in which they have interest, their plan on how they will use the equipment and who will accept the equipment on behalf of the school or non-profit organization. Offices should maintain this information for determining which organizations should receive the donation.

Each office should assign a point of contact for ADP-related and scientific-related transfers. These individuals should be able to respond to any inquiries related to the equipment and its installation to ensure effective use of the equipment.

A Donation Review Committee shall be established by each donation approval official identified under **PURPOSE**. The committee (can be a standing or convened Board of Survey) is charged with the responsibility of ensuring a fair and equitable distribution of donated property to qualified and/or targeted recipient organizations. At a minimum, the approval official, or a designee, will convene the committee annually as a means of evaluating the component's donor practices. More frequent committee reviews are encouraged, if practicable. Documentation of committee activities should be retained by the approval official for audit purposes.

Representatives (possessing appropriate identification) from eligible organizations should visit the donating office to determine the specific equipment that is available at any specific time. These representatives may review and select any available excess equipment. Selected property will be "frozen" for that organization's pickup for a reasonable period of time (usually 14 days). Offices will retain the right to rescind or lift the freeze if the requesting organization has not made a good-faith effort to respond within the time allowed for pickup. (This can be determined by the office involved).

Documenting the Transfers

Once a determination of donation has been made, the PMO/PPO (or their designee) shall complete or **have** completed an HHS-22, "Request for Personal Property", before the equipment is removed from the premises. In addition to the HHS-22 (transfer document), a Certification Statement (Attachment A) will be completed by the acquiring organization. The PMO/PPO (or their designee) will sign the transfer document, retain a copy of the Certification Statement, and approve the transfer to the acquiring organization.

The selected organization will be notified that the transfer has been approved and is ready for

pickup. The PMO/PPO (or their designee) will provide a copy of the executed transfer document to the property custodial officer (PCO) and the acquiring organization.

A copy of the completed transfer document shall be forwarded to HFA-225 within seven calendar days of its completion for accountable property inventory control. Items will then be deleted from the FDA property database.

As per stipulations in the E.O. and Departmental policy, the acquiring organization is responsible for the packing, shipping or transportation costs associated with the transfer.

If the equipment cannot be transferred through the donation program, the PCO will begin the usual procedures for reporting and disposal through GSA.

REPORTING

Each donation approval official, identified herein, shall forward a report of all donations during the previous twelve months to HFA-225 by March 1st of each year. The report shall contain the total acquisition costs of the equipment donated and the total dollar value for each piece of equipment broken down by the respective Federal Supply Class, item description, and barcode number.

Any questions relating to donated personal property should be directed to the Personal Property Management Section, HFA-225.

Attachment A

EXECUTIVE ORDER 12999
Donation of Excess Education-Related Property
Certification Statement
Terms and Conditions

I certify that the personal property listed on the transfer document is being obtained by an { } educational institution or { } nonprofit organization and will be placed into use at the organization for the conduct of { } scientific education or { } research activities or { } general education support.

My organization hereby release and agrees to hold the Food and Drug Administration (FDA), and persons acting on behalf of FDA, harmless from any liability resulting from the receipt, shipping, installation, operation, handling, use and maintenance of the equipment, after said equipment is physically removed from the FDA facility.

Name of Organization

Transfer No.

Signature and Title

Date

